S.B.Criminal Misc. Petition No. 82/2005
(Bhupendra Vs. State of Rajasthan and Ors.)

Date of order : 04.07.2006

HON'BLE MR.H.R.PANWAR,J.

Mr. A.K.Dadhich for the petitioner.
Mr. Ashok Upadhyay, public prosecutor.
Mr. Anil Vyas for the non-petitioners No.2 and 3.

By the instant criminal misc. petition, the petitioner has challenged the order dated 08.12.2004 passed by Sessions Judge, Bikaner (for short the revisional court' hereinafter) in Criminal Revision No.179/2003 whereby the revisional court dismissed the revision filed by the petitioner against the order dated 21.8.2003 passed by Chief Judicial Magistrate, Bikaner (for short 'the trial court' hereinafter) on an application filed by non-petitioners No.2 and 3 seeking interim maintenance during the pendency of the application for maintenance under Section 125 Cr.P.C. The revision petition came to be dismissed only on the ground that the order impugned before the revisional court was interlocutory order. In view of sub-section (2) of Section 397 Cr.P.C., the order is not revisable. The view taken by the Sessions Judge cannot be said to be erroneous.

In Chhotu Singh Vs. Smt. Basanti & Ors., 2002 (3) Criminal CC 566 (Raj.). while considering the provisions of Section 19 (4) of Family Court Act and Sub-Section (2) of Section 397 Cr.P.C., it has been held by this Court that revision petition against the interlocutory order awarding maintenance is not maintainable.

In this view of the matter, I do not find any error in the order impugned warranting interference in the extra-ordinary jurisdiction.

The criminal misc. petition is accordingly dismissed. Record of the trial court be returned forthwith. Stay petition also stands dismissed.

(H.R.PANWAR), J.

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